REMARKS

The present amendment is submitted in response to the Office Action entered on October 12, 2006. An RCE is also submitted herewith. Claims 1-4, 6-12 and 33-44 are pending. Applicants note with appreciation the indication of allowable subject matter with respect to claims 8, 10, 11 and 38-44. The Examiner continued the restriction of claim 12 and further restricted claims 45 and 46. Claims 1-3, 7, 8, 33 and 34 were rejected under 35 U.S.C. §101 as being directed to non statutory subject matter. Claims 1-3, 6, 7, 9, 33 and 34 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,489,746 issued to Suzuki (Suzuki I) in combination with U.S. Pat. No. 6,931,370 issued to McDowell (McDowell). Claims 4 and 35-37 were rejected as obvious in view of Suzuki I, in combination with McDowell and U.S. Patent No. 5,831,193 issued to Suzuki et al. (Suzuki II).

Claims 1, 2, 7-10, 33-35 are hereby amended. Claims 3, 4, 12, 45 and 46 are hereby cancelled without prejudice. Reexamination and reconsideration in view of the presently submitted amendments and arguments is respectfully requested.

The Examiner indicated that claims 8, 10, 11 and 38-44 include allowable subject matter and would be allowable if amended to remove dependencies from rejected claims. Applicants hereby amend claim 10 into an independent format. Claims 11 and 38-44 depend upon claim 10. Therefore, claims 10, 11 and 38-44 are in immediate condition for allowance.

The Examiner continued the restriction of claim 12 and further restricted claims 45 and 46. Applicants hereby cancel claims 12, 45 and 46 without prejudice and without accepting that the restriction requirement is proper with respects to claim 12, 45 and 46.

Claims 1-3, 7, 8, 33 and 34 were rejected under 35 U.S.C. §101 as being directed to non statutory subject matter. Of these, claim 3 is cancelled. Claims 1, 2, 7, 8, 33 and 34 are amended to recite a "tone generation apparatus." Therefore, it is respectfully submitted that the §101 rejection has been overcome.

Claims 1-3, 6, 7, 9, 33 and 34 were rejected under 35 U.S.C. §103(a) as being obvious in view of Suzuki I in combination with U.S. Pat. No. 6,931,370 issued to McDowell. Claims 4 and 35-37 were rejected as obvious in view of Suzuki I, in combination with McDowell and Suzuki II. Claim 1 was amended to include all limitations of cancelled claims 3 and 4. Therefore, claim 1 is subject to the second rejection and not the first one. Claims 2, 7 and 33-37 – depend upon claim 1 (claims 35-37 being amended to depend on claim 1). Therefore, claims 2, 7 and 33-37 are also subject to the second rejection.

Applicants respectfully submit that the Examiner has set forth a prima facie case of obviousness.

Suzuki I teaches that samples may have variable sample sizes and the frames themselves are variable in size (col. 3, ll 50-59). On the other hand, McDowell teaches that the sample sizes are constant and the frame sizes are constant. But neither McDowell nor Suzuki I teach the use of variable sample sizes while at the same time keeping the frame sizes equal. If one were to modify Suzuki I to incorporate the fixed frame size teachings of McDowell, one must employ the fixed sample size teachings of McDowell. That is because McDowell does not teach how to keep frames comprising different sized samples the same size.

Put in other words, neither Suzuki nor McDowell teach how to compensate for differing sample sizes in order to keep the frames constant sized. And without such a teaching, a person of skill in the art would not be motivated to combine the differing sample size feature of Suzuki I with the constant frame size feature of McDowell nor have any reasonable expectation of success in combining these references.

Furthermore, claim 1 recites that the data being stored is *waveform* data. A person of skill in the art would recognize that waveform data is data in the *time domain* that defines the shape of a wave. On the other hand, McDowell teaches that the data saved is subband data, which is in the *frequency domain*. Thus, a person of skill in the art would not combine the frequency domain teachings of McDowell with Suzuki I (which also teaches saving waveform data, see col. 3, ll 46-

50) and would not generally use the teachings of McDowell for a system which obtains and save waveform data, as the one recited by claim 1.

Suzuki II relates to varying the sampling frequency of waveform data in time and does not discuss frames. It was merely cited for its alleged disclosure of an address generation section. Thus, it is believed that Suzuki II does not make up for the deficiencies of Suzuki I and McDowell as discussed above. Thus, claim 1 is patentable over the combination of Suzuki I, McDowell and Suzuki II.

Therefore, for the above discussed reasons, independent claim 1 is patentable in view of Suzuki I, McDowell and Suzuki II. Claims 2, 7 and 33-37 are patentable because they depend from patentable claim 1.

Independent claim 6 recites that "wherein irrespective of the number of bits per sample of compressed waveform data stored in said data area of each frame, each frame is stored over said predetermined number j of successive addresses." Suzuki I, McDowell and Suzuki II do not teach an operational device that discloses this recitation for the reasons discussed above in connection with claim 1. Therefore, claim 6 is not rendered obvious by the combination of Suzuki, McDowell and Suzuki II. Claim 9 also recites that "irrespective of the number of bits per sample of compressed waveform data stored in said data area of each frame, each frame is stored over said predetermined number j of successive addresses, wherein said auxiliary information area and data area in each frame are fixed in position irrespective of the number of bits per sample of compressed waveform data stored in the frame." Therefore, claim 9 is also patentable over the combination of Suzuki I, McDowell and Suzuki II for the above discussed reasons.

Applicants respectfully submit that, for the above discussed reasons, all pending claims are in condition for allowance.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles

telephone number (213) 892-5790 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032041500.

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Respectfully submitted,

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